

Wisconsin TAX BULLETIN



New Sales Tax Publication – Hotels

See article on this page and
publication on pages 39 to 48.

New Sales and Use Tax Exemption Certificate

A new exemption certificate is available for use by federal and Wisconsin governmental units. It may be used when purchasing tangible personal property or taxable services that are exempt from Wisconsin state, county, and stadium sales and use taxes and local exposition taxes. A copy of this new certificate, Government Sales and Use Tax Exemption Certificate (Form S-209), appears on pages 37 and 38 of this Bulletin.

A retailer making exempt sales to a federal or Wisconsin governmental unit may accept Form S-209 as proof that a sale to the governmental unit is exempt from Wisconsin state, county, and stadium sales and use taxes and local exposition taxes. This certificate may be accepted in lieu of a purchase order or similar written document identifying the governmental unit as the purchaser.

Form S-209 is available from any Department of Revenue office.

Focus on Publications: Hotels, Motels, and Other Lodging Providers

When must a hotel charge Wisconsin sales tax? When does a hotel owe Wisconsin use tax?

Answers to these questions and more can be found in the Department of Revenue's new Publication 219, *Hotels, Motels, and Other Lodging Providers – How Do Wisconsin Sales and Use Taxes Affect Your Operation?*. A copy of this publication appears on pages 39 to 48 of this Bulletin. The publication is also available from any Department of Revenue office, or by calling the department's Fax-a-form number, (608) 261-6229, from a fax machine and entering retrieval number 10219.



Do You Have Ideas or Suggestions for 1996 Tax Forms?

Do you have comments, ideas, or suggestions for improving Wisconsin's tax forms or instructions? Can you think of ways the forms or instructions could be made easier to understand? If so, the department would like to hear from you.

Please take a few moments to put your ideas in writing, and mail them to Wisconsin Department of Revenue, Administration Technical Services, P.O. Box 8933, Madison, WI

53708-8933, or fax them to (608) 261-6240. Your suggestions could help make "tax time" easier for taxpayers and practitioners.



Need a Speaker?

Are you planning a meeting or training program? The Wisconsin Department of Revenue provides speakers to business, community, and educational organizations.

Department representatives are available to speak on a variety of topics that can be targeted toward your group's particular areas of interest, including:

- New sales/use, income, and corporate tax laws.
- How sales tax affects contractors, landscapers, manufacturers, non-profit organizations, or businesses in general.
- What to expect in an audit.
- Common errors discovered in audits.
- Homestead credit.
- Farmland preservation credit.
- Manufacturing property assessment.

To arrange for a speaker, please write to Wisconsin Department of Revenue, Speakers Bureau, P.O. Box 8933, Madison, WI 53708-8933, or call (608) 266-1911.

In This Issue

	Page		Page
Articles —		Publications Available	5
New Exemption Certificate	1	Question and Answer	6
Focus on Publications: Hotels	1	Administrative Rules	6
Ideas for Forms?	1	Recently Adopted Rules	7
Need a Speaker?	1	Report on Litigation	13
Sales/Use Tax Changes	2	Tax Releases	28
Business Tax Registration	2	Private Letter Rulings	34
Did You Know?	3	Attachments —	
4-Month Extension	3	Form S-209	37
Information or Inquiries?	3	Publication 219	39
<i>Bulletin</i> Index Available	3	June Tax Report	49
Topical and Court Case Index	4	Order Blank	51
Nonfilers Nabbed	4		

and use, fuel, alcohol beverage, cigarette, and tobacco products taxes. The \$20 BTR fee is **not** required for obtaining:

- sales and use tax certificates of exempt status.
- consumer's use tax registration certificates.
- local exposition district tax permits.
- medicinal alcohol permits.
- sacramental wine permits.
- tobacco products salesperson permits.
- fuel transporter permits.

The \$20 BTR fee does not apply if a person already holds a permit or certificate for which the \$20 BTR fee was previously paid, or if, as of December 31, 1995, the person held any active permit or certificate that is subject to the BTR fee. The \$20 BTR fee is also not required for out-of-state employers who are not required to withhold Wisconsin taxes but apply for a Wisconsin employer identification number for the conveniences of their employees.

Did You Pay the \$20 BTR Fee?

Notices of Amount Due are sent to registrants who do not respond to a letter informing them of unpaid BTR fees. The amount due is generally the \$20 fee less any amount paid with the application (e.g., \$5 for a seller's permit). As with other Notices of Amount Due, if the amount due is not paid by the due date shown on the Notice, the account will become delinquent and will be subject to a \$35 delinquent tax collection fee.

If you receive a Notice of Amount Due for Business Tax Registration fees, and you feel you do not owe

New Laws, Other Sales/Use Tax Changes Explained

The June 1996 *Sales and Use Tax Report* (2-96), includes information on the following:

- Sales and use tax law changes.

- Changes to the sales and use tax return (Form ST-12) to reflect the stadium tax.
- Stadium tax reporting requirement reminder.

This Report was sent in late June to all persons registered for Wisconsin sales and use tax purposes. A copy of the Report appears on pages 49 and 50 of this Bulletin. □

Fees Required for Business Tax Registration

Persons applying for certain permits or certificates issued by the Department of Revenue may be required to pay a one-time Business Tax Registration (BTR) fee of \$20. The BTR fee applies to most permits or certificates relating to withholding, sales

Wisconsin Tax Bulletin
Published quarterly by
 Wisconsin Department of Revenue
 Income, Sales, and
 Excise Tax Division
 P.O. Box 8933
 Madison, WI 53708-8933

Subscriptions available from
 Wisconsin Department of
 Administration
 Document Sales
 P.O. Box 7840
 Madison, WI 53707-7840
 Annual cost \$7.00

this amount, be sure to contact the department **before** the due date shown on the Notice, so the matter can be resolved before any delinquent tax collection fee is imposed. Use the address or phone number listed on the Notice. Contact the department if, for example, you already paid a \$20 BTR fee, or as of December 31, 1995, you held an active permit or certificate, of a type that is subject to the \$20 BTR fee.

Note: See *Wisconsin Tax Bulletin* 95 (January 1996), page 9, for more information about Business Tax Registration, including alcohol beverage fees and renewals. □

Did You Know?

- You may have a state use tax liability.
- The most frequent adjustments made in audits involve unreported use tax.

You may owe Wisconsin state use tax if you buy items and services that will be used, stored, or consumed in Wisconsin, without paying Wisconsin state sales tax.

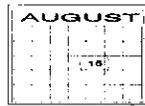
A credit is allowed against Wisconsin state use tax for the state sales or use tax correctly paid to another state on the same items or services.

Examples of use tax liabilities

- You buy items from an out-of-state mail order company. The vendor ships the items to you in Wisconsin. The vendor does not charge you any sales or use tax. You owe Wisconsin state use tax.
- You buy items exempt from sales tax for the purpose of resale. Later you take an item out of inventory for use in your

business. You owe Wisconsin state use tax.

- You give taxable items as gifts to clients. If you did not pay sales or use tax on the purchase of the gifts, you owe Wisconsin state use tax. □



Automatic 4-Month Extension Expires August 15

If your 1995 Wisconsin and federal individual income tax returns were due April 15, 1996, but you filed an application for an automatic 4-month extension for filing your federal return with the Internal Revenue Service (IRS), both your federal and Wisconsin returns are due August 15, 1996. When you file your Wisconsin return, be sure to attach to it a copy of the federal extension application, Form 4868.

Any filing extension available under federal law may be used for Wisconsin purposes, even if you are not using that extension of time to file your federal return. If you did not file a federal extension application but needed a 4-month extension for Wisconsin only, your 1995 Wisconsin return, ordinarily due April 15, 1996, must be filed by August 15, 1996. In this situation, you should attach a statement to the 1995 Wisconsin return you file, indicating that you are filing under the federal automatic 4-month extension provision, or attach a copy of federal Form 4868 with only the name, address, and signature areas completed.

(Note: You are not required to pay your 1995 taxes by April 15, 1996, as a condition for receiving an extension of time to file your Wisconsin tax return.) □

Information or Inquiries?

Listed below are telephone numbers to call if you wish to contact the Department of Revenue about any of the taxes administered by the Income, Sales, and Excise Tax Division.

Madison — Main Office
Area Code (608)

Appeals	266-0185
Audit of Returns: Corporation, Individual, Homestead	266-2772
Beverage	266-6701
Cigarette, Tobacco Products	266-8970
Copies of Returns: Homestead	266-2890
Individual	266-1266
All Others	266-0678
Corporation Franchise and Income	266-1143
Delinquent Taxes	266-7879
Estimated Taxes	266-9940
Fiduciary, Estate	266-2772
Forms Request: Taxpayers	266-1961
Practitioners	267-2025
Homestead Credit	266-8641
Individual Income	266-2486
Motor Vehicle Fuel	266-3223
Refunds	266-8100
Sales, Use, Withholding	266-2776
TDD	267-1049

District Offices

Appleton	(414) 832-2727
Eau Claire	(715) 836-2811
Milwaukee:	
General	(414) 227-4000
Refunds	(414) 227-4907
TDD	(414) 227-4147

Wisconsin Tax Bulletin Annual Index Available

Once each year the *Wisconsin Tax Bulletin* includes an index of materials that have appeared in past Bulletins. The latest index available appears in *Wisconsin Tax Bulletin* 96 (April 1996), pages 31 to 58, and

includes information for issues 1 (October 1976) to 95 (January 1996). □

Topical and Court Case Index Available

Are you looking for an easy way to locate reference material to research a Wisconsin tax question? The *Wisconsin Topical and Court Case Index* will help you find reference material to research your Wisconsin tax questions. This index references Wisconsin statutes, administrative rules, *Wisconsin Tax Bulletin* articles, tax releases, publications, Attorney General opinions, and court decisions.

The first part of the index, the "Topical Index," gives references to alphabetized subjects for the various taxes, including individual income, corporation franchise and income, withholding, sales and use, gift, inheritance and estate, cigarette, tobacco products, beer, intoxicating liquor and wine, and motor vehicle fuel, alternate fuels, and general aviation fuel.

The second part, the "Court Case Index," lists Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court decisions by alphabetized subjects for the various taxes.

If you need an easy way to research Wisconsin tax questions, subscribe to the *Wisconsin Topical and Court Case Index*. The annual cost is \$18, plus sales tax. The \$18 fee includes a volume published in December, and an addendum published in May.

To order your copy, complete the order blank on page 51 of this Bulletin. The order blank may also be used for subscribing to the *Wisconsin Tax Bulletin* and for ordering the Wisconsin Administrative Code. □

Nonfilers Nabbed

Accountant and attorney Gary May, 52, Madison, was sentenced in June 1996, on charges of failure to file Wisconsin income tax returns for 1993 and 1994. Dane County Judge Michael Torphy withheld sentence on the failure to file charge for 1993 and placed May on three years probation. During the period of probation he must file all returns when due. In addition, Judge Torphy fined May \$1,500 on the failure to file charge for 1994.

During 1993 and 1994, May's income was from May Law Offices S.C. of Madison. According to the criminal complaint, May has not filed returns on time for 13 consecutive years.

Failure to file a Wisconsin income tax return when due is a crime punishable by up to nine months imprisonment and up to \$10,000 in fines. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the taxes, penalties, and interest due follows conviction for criminal violations.

David L. Comey, 49, Elm Grove, was found guilty in April 1996, of five counts of failure to file state tax returns for corporations that he owned. In a plea agreement, Comey pled no contest to the charges and filed tax returns for the corporations, as well as his own income tax returns for 1991 and 1992. Dane County Circuit Court Judge P. Charles Jones placed Comey on probation for three years and ordered him to pay \$1,000 in court costs.

At the time of the conviction, Comey was already incarcerated for

past state tax violations, including failure to file income tax returns for 1989 and 1990 and filing fraudulent Wisconsin motor vehicle registrations. The fraudulent registrations were filed to evade the sales taxes due on Mercedes Benz automobiles that he had purchased in 1989 and 1991. In June 1995, he was ordered to serve fifteen months in jail related to those May 1993 convictions.

Self-employed businessman Richard Grenzer, 46, Palmyra, was charged in April 1996, with two counts of failing to file Wisconsin income tax returns. According to the criminal complaint, he lived in Brookfield when he failed to file 1992 and 1993 returns. He had gross income in excess of \$109,000 during the two year period, with a tax owing of \$5,816. If convicted on both counts, Grenzer faces up to 18 months in jail and up to \$20,000 in fines.

Also in April, Bryan J. and Cynthia C. Gore, ages 42 and 38, Grafton, were charged with three counts each of failure to file 1992, 1993, and 1994 Wisconsin income tax returns. Bryan Gore & Associates, Inc., also in Grafton, was charged with two counts of failure to file 1993 and 1994 Wisconsin franchise tax returns.

According to the criminal complaint, during 1992, 1993, and 1994 the Gores' income exceeded \$132,000, with a tax liability during the three years of \$6,465. The complaint also alleges the gross income of Bryan Gore & Associates, Inc. was \$638,000 for 1993 and \$380,000 for 1994.

If convicted on all counts, Bryan Gore faces up to 45 months in jail and up to \$50,000 in fines. Cynthia

Gore faces up to 27 months in jail and \$30,000 in fines.

William Kritter, Hales Corners, was charged, also in April, with one count of filing a false return to evade sales tax. According to the criminal complaint, Kritter filed a false boat application that listed a boat with a full purchase price of \$20,000 and showing a sales tax due of \$1,100. The complaint alleges he actually paid \$55,000 for the boat. Kritter paid additional tax, interest, and penalty in the amount of \$3,484.25.

If convicted, Kritter faces up to 30 days in jail and up to \$500 in fines. □

Tax Publications Available

The Department of Revenue publishes over 45 publications that are available, free of charge, to taxpayers or practitioners. To order any of the publications, write or call Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8903, Madison, WI 53708-8903 (telephone (608) 266-1961).

Publications can also be ordered by fax, using the department's "Fax-a-form" system by calling (608) 261-6229 from a fax telephone.

Number	Title of Publication (and last revision date)
102	Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (12/95)
103	Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts (10/95)
104	Wisconsin Taxation of Military Personnel (8/95)

106	Wisconsin Tax Information for Retirees (11/95)	205	Do You Owe Wisconsin Use Tax? (Individuals) (9/95)
109	Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 1995 (10/95)	206	Sales Tax Exemption for Nonprofit Organizations (9/90)
111	How to Get a Private Letter Ruling From the Wisconsin Department of Revenue (3/96)	207	Sales and Use Tax Information for Contractors (2/96)
112	Wisconsin Estimated Tax and Estimated Surcharge for Individual, Estates, Trusts, Corporations, Partnerships (8/94)	210	Sales and Use Tax Treatment of Landscaping (5/94)
113	Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (10/95)	211	Sales and Use Tax Information for Cemetery Monument Dealers (10/91)
114	Wisconsin Taxpayer Bill of Rights (3/96)	212	Businesses: Don't Forget About Use Tax (7/94)
115	Wisconsin Federal/State Electronic Filing Handbook (9/95)	213	Travelers: Don't Forget About Use Tax (3/93)
116	Income Tax Payments Are Due Throughout the Year (12/95)	214	Do You Owe Wisconsin Use Tax? (Businesses) (9/93)
117	Guide to Wisconsin Information Returns (6/95)	216	Filing Claims for Refund of Sales or Use Tax (9/95)
118	Electronic Funds Transfer Guide (4/96)	217	Auctioneers — How Do Wisconsin Sales and Use Taxes Affect Your Operations? (3/96)
119	Limited Liability Companies (LLCs) (10/95)	218	Refund Interception Guide for Counties and Municipalities (5/96)
120	Net Operating Losses for Individuals, Estates, and Trusts (11/95)	219	Hotels, Motels, and Other Lodging Providers — How Do Wisconsin Sales and Use Taxes Affect Your Operations? (6/96)
121	Reciprocity (10/95)	400	Wisconsin's Temporary Recycling Surcharge (12/95)
200	Sales and Use Tax Information for Electrical Contractors (10/95)	410	Local Exposition Taxes (11/94)
201	Wisconsin State and County Sales and Use Tax Information (9/95)	500	Tax Guide for Wisconsin Political Organizations and Candidates (9/95)
202	Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs (6/96)	501	Field Audit of Wisconsin Tax Returns (2/96)
203	Sales and Use Tax Information for Manufacturers (12/94)	502	Do You Have Wisconsin Tax Questions? (10/95)
		503	Wisconsin Farmland Preservation Credit (12/95)

- 504 Directory for Wisconsin Department of Revenue (10/95)
- 505 Taxpayers' Appeal Rights of Office Audit Adjustments (10/95)
- 506 Taxpayers' Appeal Rights of Field Audit Adjustments (10/95)
- 507 How to Appeal to the Tax Appeals Commission (10/95)
- 508 Wisconsin Tax Requirements Relating to Nonresident Entertainers (8/94)
- 509 Filing Wage Statements and Information Returns on Magnetic Media (3/94)
- 600 Wisconsin Taxation of Lottery Winnings (11/93)
- 601 Wisconsin Taxation of Pari-Mutuel Wager Winnings (3/94)
- 700 Speakers Bureau presenting ... (2/93)
- W-166 Wisconsin Employer's Withholding Tax Guide (9/90)

Question and Answer

Q I sell tangible personal property in Wisconsin. However, none of my sales are subject to Wisconsin sales or use tax because exemptions apply.

Am I required to register for a Wisconsin sellers permit? If not, can I still purchase without Wisconsin sales or use tax on the items I resell?

A If all your sales of tangible personal property or services are exempt from Wisconsin sales or use tax, you are not required to have a Wisconsin seller's permit. You may still purchase the items you will resell, without paying Wisconsin sales or use tax. You should give your supplier a completed Form S-207, Certificate of Exemption, indicating that the items being purchased are for resale.

Q I purchase office supplies of \$100 by mail from an out-of-state company that does not charge me sales or use tax. An additional charge of \$5 is made by the company for shipping and handling. I understand that I am required to report Wisconsin use tax on the \$100 paid for the office supplies.

Is the \$5 charge for shipping and handling also subject to Wisconsin use tax?

A Yes. The \$5 shipping and handling charge is subject to Wisconsin use tax. The total amount subject to use tax is \$105 (\$100 for office supplies plus the \$5 shipping and handling charge).

Administrative Rules in Process

Listed below are proposed new administrative rules and changes to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of July 1, 1996, or at the stage in which action occurred during the period from April 2 to July 1, 1996.

Each affected rule lists the rule number and name, and whether it is amended (A), repealed (R), repealed and recreated (R&R), or a new rule (NR).

Scope Statement Sent to Revisor

- 11.002 Permits, application, department determination-A

- 11.01 Sales and use tax return forms-A
- 11.35 Occasional sales by non-profit organizations on or after January 1, 1989-A
- 11.97 "Engaged in business" in Wisconsin-A

Rules Sent to Legislative Council Rules Clearinghouse

- 11.28 Gifts, advertising specialties, coupons, premiums and trading stamps-A
- 11.46 Summer camps-A
- 11.51 Grocers' guidelist-A
- 11.83 Motor vehicles-A
- 11.87 Meals, food, food products and beverages-A
- 11.95 Retailer's discount-R&R

Rules Sent to Revisor for Publication of Notice

- 2.47 Apportionment of net business income of interstate motor carriers of property-R&R
- 11.69 Financial institutions-A

Rules Sent for Legislative Committee Review

- 2.47 Apportionment of net business income of interstate motor carriers of property-R&R
- 9.01 Definitions-A
- 9.06 Affixing of state revenue stamps-A
- 9.08 Cigarette tax refunds to Indian tribes-A